

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/18/08

SPONSOR Ortiz y Pino LAST UPDATED _____ HB _____

SHORT TITLE Bernalillo Guardian Monitoring Study SB 169

ANALYST Propst

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$200.0	Non-recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Children, Youth and Families Department (CYFD)
 DDPC Office of Guardianship

SUMMARY

Synopsis of Bill

Senate Bill 169, Making an Appropriation to Contract for a Feasibility Study of a Permanent Program in Bernalillo County that Monitors Guardianships and Conservatorships, appropriates \$200 thousand from the general fund to the Department of Finance and Administration for the purpose of conducting a study of the feasibility of a permanent program in Bernalillo County that ensures the safety and well being of the population under the protection of guardianships and conservatorships.

FISCAL IMPLICATIONS

The appropriation of \$200 thousand contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY09 shall revert to the general fund.

SIGNIFICANT ISSUES

According to the Administrative Office of the Courts, the pilot program would involve the review of 500 randomly selected guardianships and conservatorships in Bernalillo County through the use of special limited visitors. A statewide monitoring program, including budgetary recommendations, could then be developed based upon the information collected. In the process, the measure would provide immediate benefit to the hundreds of adults under guardianship whose cases are reviewed.

The Children, Youth and Families Department (CYFD) notes that the bill does not indicate whether the target population for the monitoring of guardianships and conservatorships includes both children and adults. While both guardianships and conservatorships are established for vulnerable adults, guardianships may also be established for children. Currently, the New Mexico Children's Code and the Probate Code have provisions for the establishment of guardianships for children.

This bill does not require the creation of a program, but only that a study is conducted to determine the feasibility of the creation of such a program.

CYFD further noted that the Adult Protective Services Act contains provisions for the investigation of the abuse, neglect and/or exploitation of vulnerable adults and would provide a mechanism to assess and protect vulnerable adults served through guardianship or conservatorship if there were allegations of maltreatment or exploitation. Aging and Long Term Services Department conducts adult protective services investigations.

The Office of Guardianship reports that it is not involved with conservatorships.

This study was among the recommendations of the recent HJM 34 Guardianship Task Force Final Report (dated Oct. 19, 2007) – but only regarding guardianship, and not related to conservatorships. The Office of Guardianship coordinated this Task Force with the contract support by Protection & Advocacy.

The Office of Guardianship contract guardians are only a small subset (about 10%) of the overall total number of guardians that also include family and private pay guardians.

The Task Force, as required by the Memorial, invited representatives from the developmental disabilities planning council, the administrative office of the courts, the adult protective services division of the aging and long-term services department, the department of health, other appropriate state agencies, New Mexico district court judges, the New Mexico guardianship association, the protection and advocacy system, the senior citizens law office, individual and corporate guardians, elders, individuals with disabilities, advocates or other representatives of elders or adults with disabilities and other interested individuals.

WEP/bb